

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

**Remarks**

The Office Action mailed October 10, 2003 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 16-18, 20-22, 24, 26-64, and 66-96 are now pending in this application. Claims 16-37 and 53-72 are rejected. Claims 1-15, 19, 23, 25, and 65 have been cancelled. Claims 38-52 and 73-94 have been indicated as withdrawn. Claims 95 and 96 are newly added. A fee calculation sheet is enclosed for newly added independent Claim 96.

In accordance with 37 C.F.R. 1.136(a), a three month extension of time is submitted herewith to extend the due date of the response to the Office Action dated October 10, 2003, for the above-identified patent application from January 10, 2004, through and including April 10, 2004. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$950.00 to cover this extension of time request also is submitted herewith.

Reconsideration of the restriction requirement imposed under 35 U.S.C. § 121 is respectfully requested.

A restriction to either invention I, consisting of claims 1-15 drawn to an air handler, classified in Class 454, subclass 228+, invention II, consisting of claims 16-37 and 53-72, drawn to a quick chill and thaw system, classified in class 165, subclass 48.1, or invention III, consisting of claims 38-52, drawn to a refrigerator, classified in class 62, subclass 3.6+, was imposed. In response, Applicants elect with traverse to prosecute the invention of Group II, claims 16-37, 53-72, and 73-88. Applicants submit that previously newly added Claims 73-88 are in Group II rather than Group III as indicated by the Examiner. Previously newly added Claims 89-94 are in Group III. Newly added Claims 95 and 96 are in Group II.

**Via Facsimile: (703) 872-9306**

**9D-HR-19236  
PATENT**

The requirement for election is traversed because Group I has been cancelled and the inventions set out by the claims in Groups II and III are clearly related because a thorough search and examination of any Group would be relevant to the examination of the other Group.

Regarding Groups II and III, the Office Action notes that "the applicant has failed to particularly and distinctly point out the errors in the examiners requirement to restrict, such as by indicating that Groups II and III are not patentably distinct from each other." Applicants note, however, that Claim 38 of Group III recites a "an air handler mounted in one of said fresh food compartment and said freezer compartment and placed in flow communication with the other of said fresh food and freezer compartment through said mullion wall and further in flow communication with said pan, said air handler adapted for producing convective airflow within said pan at a decreased temperature relative to a temperature of said fresh food compartment when in a quick chill mode, and an increased temperature relative to said temperature of said fresh food compartment when in a thaw mode", while Claim 16 of Group II recites "a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature...a pan...an air handler comprising an air supply flow path, a fan positioned to move air through said air supply flow path from the first compartment and into said pan, a return flow path configured to return air from said pan to the first compartment, and a heater element positioned to warm air that passes through said air handler". Applicants respectfully submit that it is evident that the claims of Groups II and III have an overlapping nature such that a search and examination of Groups II and III can be made without serious burden. MPEP section 803 states that if "the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, *even though it includes claims to independent or distinct inventions*" (emphasis added). Applicants have cancelled Group I and respectfully submit that the search and examination of an entire application (Groups II and III) can be made without serious burden. For the reasons set forth above, Applicants respectfully request examination of Groups II and III. Additionally, reconsideration of the election requirement is requested because election requirements are not

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

mandatory. Also, as a minimum, Applicants request examination of claims 73-88, 95, and 96, because claims 73-88, 95, and 96 are in Group II.

The objection to Claims 35, 55, and 68 due to informalities is respectfully traversed. Claims 35 and 55 have amended to insert "between" between "is" and "about". Claim 68 has been amended to insert a period at the end of Claim 68. For the reasons set forth above, Applicants request that the objection to Claims 35, 55, and 68 be withdrawn.

The rejection of Claims 22, 26-29, 32-37, 53-63, and 65-69 under 35 U.S.C. § 112 is respectfully traversed. Claim 22 has been amended to remove "thereto" and is submitted to be definite, thus Claims 28 and 29 are also definite. Claims 26 and 33-37 have been amended and are submitted to be definite. Specifically, Claim 26 has been amended to recite "configured to apportion" and Claims 33 and 34 have been amended to recite "configured to move." Claims 35-37 are also submitted to be definite. Claim 27 has been amended to correctly depend from Claim 26 and is now definite. The Office Action indicated that Claims 32 and 65 were unclear in regards to which structure is encompassed by the limitation "comprises a chill side and a thaw side," Applicants believe Claim 31 was meant instead of Claim 32, and are responding accordingly. Applicants respectfully submit that Claims 31 and 65 are clear to which structure is encompassed by the limitation, specifically Claims 31 and 65 recite "said rack comprises a chill side and a thaw side" and are submitted to be definite, thus all claims depending therefrom are also submitted to be definite.

Claims 34 and 54 have been amended to remove "acceptable" and are submitted to be definite, thus all claims depending from Claims 34 and 54 are also submitted to be definite. Claim 53 has been amended to recite an "increased temperature greater than a temperature of the fresh food compartment" and is submitted to be definite, thus all claims depending therefrom are also submitted to be definite. Claim 66 has been amended to remove "optimal" and is submitted to be definite, thus all claims depending therefrom are also submitted to be definite.

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

For the reasons set forth above, Applicants respectfully request that the Section 112 rejections of Claims 22, 26-29, 32-37, 53-63, and 65-69 be withdrawn.

The rejection of Claims 16-19, 21-28, 30-37, 53, 54, 58-61, and 63-72 under 35 U.S.C. § 102(b) as being anticipated by Peterson et al. (U.S. Patent No. 5,758,512) is respectfully traversed.

Peterson et al. describe a refrigerator (20) having a freezer compartment (26), a fresh food compartment (28), and a freezer compartment (34). The third compartment may be used as a deep freeze compartment. An automatic baffle assembly (96) is positioned within a fan plenum (100) and includes a main damper (102) and a slide damper (104). Air can be directed to compartment (26) by rotating the slide damper or to compartment (34) by rotating the main damper. Peterson et al. also describe a defrost heater (82) for periodically defrosting an evaporator (44) as described in Janke et al. (U.S. Patent No. 5,363,667) (at column 6, lines 20-22). Notably Peterson et al. do not describe or suggest a pan positioned within a fresh food compartment and a heater element positioned such that air entering the pan is at a temperature greater than a temperature of the fresh food compartment.

Claim 16 recites "a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature...a pan...an air handler comprising an air supply flow path, a fan positioned to move air through said air supply flow path from the first compartment and into said pan, a return flow path configured to return air from said pan to the first compartment, and a heater element positioned to warm air that passes through said air handler."

Peterson et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature a pan, an air handler including an air supply flow path, a fan positioned to move air through the air supply flow path from the first compartment and into the pan, a return flow path configured to return air from the pan to the first compartment, and a heater element positioned to

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

warm air inside the air handler. Specifically, Peterson et al. do not describe a heater element positioned to warm air that passes through the air handler. Rather, in contrast to the present invention, Peterson et al. describe a baffle assembly for redirecting refrigerated air into a second freezer compartment. Accordingly, for at least the reasons set forth above, Claim 16 is submitted to be patentable over Peterson et al.

Claims 19, 23, and 25 have been canceled. Claims 17, 18, 21, 22, 24, 26-28, and 30-37 depend from independent Claim 16. When the recitations of Claims 17, 18, 21, 22, 24, 26-28, and 30-37 are considered in combination with the recitations of Claim 16, Applicants submit that dependent Claims 17, 18, 21, 22, 24, 26-28, and 30-37 are likewise patentable over Peterson et al.

Claim 53 recites a quick chill and thaw system for a refrigerator including a fresh food compartment including "a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature...an air handler in flow communication with said pan...a heater element positioned such that air entering said pan is at a temperature greater than the first temperature."

Peterson et al. do not describe or suggest a quick chill and thaw system for a refrigerator including a fresh food compartment including a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature, an air handler in flow communication with the pan, and a heater positioned such that air entering the pan is at a temperature greater than the first temperature. Moreover, Peterson et al. do not describe or suggest a heater positioned such that air entering the pan is at a temperature greater than the first temperature. Rather, in contrast to the present invention, Peterson et al. describe a baffle assembly for redirecting refrigerated air into a second freezer compartment. Accordingly, for at least the reasons set forth above, Claim 53 is submitted to be patentable over Peterson et al.

Claims 54, 58-61, and 63 depend from independent Claim 53. When the recitations of Claims 54, 58-61, and 63 are considered in combination with the recitations of Claim 53,

**Via Facsimile: (703) 872-9306**

**9D-HR-19236  
PATENT**

Applicants submit that dependent Claims 54, 58-61, and 63 are likewise patentable over Peterson et al.

Claim 64 recites a quick chill and thaw system for a refrigerator including "a pan...an air handler adapted for producing convective airflow within said pan...and a rack inside said pan for positioning items placed therein, wherein said rack comprises a chill side and a thaw side."

Peterson et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a pan, an air handler adapted for producing convective airflow within the pan, and a rack inside the pan for positioning items placed therein, wherein the rack includes a chill side and a thaw side. Specifically, Peterson et al. do not describe a rack that includes a chill side and a thaw side. Rather, in contrast to the present invention, Peterson et al. describe a compartment convertible between a freezer and refrigerator. Accordingly, for at least the reasons set forth above, Claim 64 is submitted to be patentable over Peterson et al.

Claim 65 has been canceled. Claims 66-72 depend directly or indirectly from independent Claim 64. When the recitations of Claims 66-72 are considered in combination with the recitations of Claim 64, Applicants submit that dependent Claims 66-72 are likewise patentable over Peterson et al.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejections of Claims 16-19, 21-28, 30-37, 53, 54, 58-61, and 63-72 be withdrawn.

The rejection of Claims 16-19, 21-24, 29-37, 53, 54, 58, 60, 61, and 63-67 under 35 U.S.C. § 102(b) as being anticipated by O'Hearne et al. (U.S. Patent No. 5,069,273) is respectfully traversed.

O'Hearne et al. describe a food server (20) for simultaneously cold storing foods to be served hot and foods to be served cold, and for heating the food to be served hot while keeping cold the foods to served cold. The server includes a cabinet (22) having adjacent first and second insulated compartments (24 and 26). The server also includes a first and second refrigeration

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

system (28 and 32) for cooling the first and second compartments and a heating system (52) for heating the first compartment. The server also includes a control mechanism (214) for selectively activating and deactivating the refrigeration and heating systems. A first fan (54) forces air through the first compartment and a second fan (96) forces air through the second compartment, respectively. The first compartment includes a plurality of shelves (70) that are slidable along a plurality of guides (72).

Claim 16 recites "a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature...a pan...an air handler comprising an air supply flow path, a fan positioned to move air through said air supply flow path from the first compartment and into said pan, a return flow path configured to return air from said pan to the first compartment, and a heater element positioned to warm air that passes through said air handler...a duct member adapted for establishing flow communication between said air supply flow path and an air supply, wherein said air supply comprises a freezer compartment."

O'Hearne et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature a pan, an air handler including an air supply flow path, a fan positioned to move air through the air supply flow path from the first compartment and into the pan, a return flow path configured to return air from the pan to the first compartment, and a heater element positioned to warm air that passes through the air handler, and a duct member adapted for establishing flow communication between the air supply flow path and an air supply, wherein the air supply includes a freezer compartment. Specifically, O'Hearne et al. do not describe an air supply, wherein the air supply includes a freezer compartment. Rather, in contrast to the present invention, O'Hearne et al. describe a refrigeration system and a heater system. Accordingly, for at least the reasons set forth above, Claim 16 is submitted to be patentable over O'Hearne et al.

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

Claims 19 and 23 have canceled. Claims 17, 18, 21, 22, 24, and 28-37 depend from independent Claim 16. When the recitations of Claims 17, 18, 21, 22, 24, and 28-37 are considered in combination with the recitations of Claim 16, Applicants submit that dependent Claims 17, 18, 21, 22, 24, and 28-37 likewise are patentable over O'Hearne et al.

Claim 53 recites a quick chill and thaw system for a refrigerator including a fresh food compartment including "a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature...and an air handler in flow communication with said pan, said air handler including a heater element and configured for discharging air into said pan at a temperature greater than the first temperature."

O'Hearne et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a fresh food compartment including a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature and an air handler in flow communication with the pan, wherein the air handler includes a heater element and is configured for discharging air into the pan at a temperature greater than the first temperature. Specifically, O'Hearne et al. do not describe a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature. Rather, in contrast to the present invention, O'Hearne et al. describe a refrigeration system and a heater system. Accordingly, for at least the reasons set forth above, Claim 53 is submitted to be patentable over O'Hearne et al.

Claims 54, 58, and 60-63 depend from independent Claim 53. When the recitations of Claims 54, 58, and 60-63 are considered in combination with the recitations of Claim 53, Applicants submit that dependent Claims 54, 58, and 60-63 are likewise patentable over O'Hearne et al.

Claim 64 recites a quick chill and thaw system for a refrigerator including "a pan...an air handler adapted for producing convective airflow within said pan...and a rack inside said pan for positioning items placed therein, wherein said rack comprises a chill side and a thaw side."



**Via Facsimile: (703) 872-9306**

**9D-HR-19236  
PATENT**

O'Hearne et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a pan, an air handler adapted for producing convective airflow within the pan, and a rack inside the pan for positioning items placed therein, wherein the rack includes a chill side and a thaw side. Specifically, Peterson et al. do not describe a rack that includes a chill side and a thaw side. Rather, in contrast to the present invention, O'Hearne et al. describe a rack that can be position in either the heating or cooling compartment. Accordingly, for at least the reasons set forth above, Claim 64 is submitted to be patentable over O'Hearne et al.

Claim 65 has been canceled. Claims 66 and 67 depend directly or indirectly from independent Claim 64. When the recitations of Claims 66 and 67 are considered in combination with the recitations of Claim 64, Applicants submit that dependent Claims 66 and 67 are likewise patentable over O'Hearne et al.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejections of Claims 16-19, 21-24, 29-37, 53, 54, 58, 60, 61, and 63-67 be withdrawn.

The rejection of Claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Peterson et al. is respectfully traversed.

Peterson et al. is described above. Applicants respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, the mere assertion that it would have been obvious to one of ordinary skill in the art to modify Peterson et al to obtain the claimed recitations of the present invention does not support a prima facie obviousness rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art and the Applicants given the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference. Applicants have not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide the Applicants with a fair opportunity to respond to the

**Via Facsimile: (703) 872-9306**

**9D-HR-19236  
PATENT**

rejection, and fails to provide the Applicants with the opportunity to challenge the correctness of the rejection.

The Office Action states "Official Notice is taken hereby that it is notoriously well-known in the art of designing refrigerators to include a light source in every storage compartment therein so that, if someone opens the door to that compartment, it is easy to see everything stored therein with using a flashlight or other supplemental light for example." Applicants respectfully traverse the Official Notice, and respectfully submit that it is not obvious to include a light source in every storage compartment within a refrigerator, rather it is obvious to have at least one refrigerator light source capable of providing light to at least the main compartment. Thus, Applicants respectfully submit that the Official Notice taken in the Office Action is inapplicable to Claim 20.

Furthermore, Applicants respectfully submit that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

prior art to combine such inferences, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991).

In the present case, neither a suggestion nor motivation to modify the cited art, nor any reasonable expectation of success, has been shown. Specifically, no teaching or suggestion has been shown to modify Peterson et al. Rather, the Section 103 rejection appears to be based on a hindsight reconstruction in which a disclosure and an isolated assertion have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claim 20 be withdrawn.

Furthermore, Applicants respectfully submit that no motivation nor teaching for the modifications can be found within Peterson et al. Specifically, as described herein, Applicants respectfully submit that Peterson et al. teaches away from the present invention.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicants respectfully submit that Peterson et al. teaches away from the present invention, and as such, Applicants request that the Section 103 rejection of Claim 20 be withdrawn.

Further, and to the extent understood, Peterson et al. do not describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 20 depends from Claim 16 which recites "a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature...a pan...an air handler comprising an air supply flow path, a fan positioned to move air through said air supply flow path from the first

*Via Facsimile: (703) 872-9306*

9D-HR-19236  
PATENT

compartment and into said pan, a return flow path configured to return air from said pan to the first compartment, and a heater element positioned to warm air that passes through said air handler."

Peterson et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a first compartment at a first temperature and a second compartment at a second temperature a pan, an air handler including an air supply flow path, a fan positioned to move air through the air supply flow path from the first compartment and into the pan, a return flow path configured to return air from the pan to the first compartment, and a heater element positioned to warm air that passes through the air handler. Specifically, Peterson et al. do not describe a heater element positioned to warm air that passes through the air handler. Rather, in contrast to the present invention, Peterson et al. describe a baffle assembly for redirecting refrigerated air into a second freezer compartment. Accordingly, for at least the reasons set forth above, Claim 16 is submitted to be patentable over Peterson et al.

Claim 20 depends from independent Claim 16. When the recitations of Claim 20 are considered in combination with the recitations of Claim 16, Applicants submit that dependent Claim 20 is likewise patentable over Peterson et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 20 be withdrawn.

The rejection of Claims 55-57 under 35 U.S.C. § 103(a) as being unpatentable over O'Hearne et al. is respectfully traversed.

O'Hearne et al. is described above. Applicants respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, the mere assertion that it would have been obvious to one of ordinary skill in the art to modify O'Hearne et al. to obtain the claimed recitations of the present invention does not support a prima facie obviousness rejection. Rather, each allegation of what would have been an obvious

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art and the Applicants given the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference. Applicants have not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide the Applicants with a fair opportunity to respond to the rejection, and fails to provide the Applicants with the opportunity to challenge the correctness of the rejection.

The Office Action states "Official Notice is taken hereby that it is notoriously well-known in the food handling art that thawing frozen foods, such as frozen turkeys, should preferably be done at a temperature of about 40 or 41 degrees Fahrenheit or possibly at a temperature a few degrees higher in order to allow thawing without any spoiling occurring." Applicants respectfully traverse the Official Notice, and respectfully submit that it is not obvious to thaw frozen foods at a temperature of about 40 or 41 degrees, rather it is obvious that the temperature can not exceed the spoiling temperature of food. Thus, Applicants respectfully submit that the Official Notice taken in the Office Action is inapplicable to Claims 55-57.

Furthermore, Applicants respectfully submit that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

**Via Facsimile: (703) 872-9306**

**9D-HR-19236  
PATENT**

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such inferences, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991).

In the present case, neither a suggestion nor motivation to modify the cited art, nor any reasonable expectation of success, has been shown. Specifically, no teaching or suggestion has been shown to modify O'Hearne et al. to. Rather, the Section 103 rejection appears to be based on a hindsight reconstruction in which a disclosure and an isolated assertion have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 55-57 be withdrawn.

Furthermore, Applicants respectfully submit that no motivation nor teaching for the modifications can be found within O'Hearne et al. Specifically, as described herein, Applicants respectfully submit that O'Hearne et al. teaches away from the present invention.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicants respectfully submit that O'Hearne et al. teaches away from the present invention, and as such, Applicants request that the Section 103 rejection of Claims 55-57 be withdrawn.

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

Further, and to the extent understood, O'Hearne et al. do not describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claims 55-57 depend from Claim 53 which recites a quick chill and thaw system for a refrigerator including a fresh food compartment including "a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature...and an air handler in flow communication with said pan, said air handler including a heater element and configured for discharging air into said pan at a temperature greater than the first temperature."

O'Hearne et al. do not describe nor suggest a quick chill and thaw system for a refrigerator including a fresh food compartment including a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature and an air handler in flow communication with the pan, wherein the air handler includes a heater element and is configured for discharging air into the pan at a temperature greater than the first temperature. Specifically, O'Hearne et al. do not describe a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature. Rather, in contrast to the present invention, O'Hearne et al. describe a refrigeration system and a heater system. Accordingly, for at least the reasons set forth above, Claim 53 is submitted to be patentable over O'Hearne et al.

Claims 55-57 depend from independent Claim 53. When the recitations of Claims 55-57 are considered in combination with the recitations of Claim 53, Applicants submit that dependent Claims 55-57 likewise are patentable over O'Hearne et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 55-57 be withdrawn.

With respect to previously submitted Claim 73, Applicants respectfully submit that none of the cited art describes a refrigerator including a first compartment and a quick chill and thaw system located in the first compartment, wherein the quick chill and thaw system include a pan and an air handler that includes an airflow path including an air supply path and a return path,

***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

and a fan positioned to move air through from the airflow path into the pan and from the pan into the airflow path. Therefore, Applicants submit that Claim 73 is patentable over the cited art.

Claims 74-79 depend from independent Claim 73. When the recitations of these claims are considered in combination with the recitations of Claim 73, Applicants submit that Claims 74-79 likewise are patentable over the cited art.

With respect to previously submitted Claim 80, Applicants respectfully submit that none of the cited art describes a quick chill and thaw system for a refrigerator including a food storage compartment, wherein the quick chill and thaw system includes a pan and an air handler in flow communication with the pan, the air handler includes a heater element and is configured for maintaining a substantially constant temperature within the pan in a thawing operation. Therefore, Applicants submit that Claim 80 is patentable over the cited art.

Claims 81-85 depend from independent Claim 80. When the recitations of these claims are considered in combination with the recitations of Claim 80, Applicants submit that Claims 81-85 likewise are patentable over the cited art.

With respect to previously submitted Claim 86, Applicants respectfully submit that none of the cited art describes a quick chill and thaw system for a refrigerator including a fresh food compartment, the quick chill and thaw system includes a pan and an air handler in flow communication with the pan, the air handler includes a flow path including a supply path and a return path, and a heater element located in the airflow path. Therefore, Applicants submit that Claim 86 is patentable over the cited art.

Claims 87 and 88 depend from independent Claim 86. When the recitations of these claims are considered in combination with the recitations of Claim 86, Applicants submit that Claims 87 and 88 likewise are patentable over the cited art.



***Via Facsimile: (703) 872-9306***

**9D-HR-19236  
PATENT**

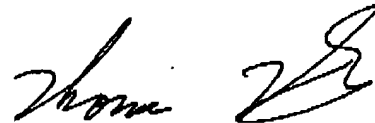
Newly added Claim 95 depends from independent Claim 16. When the recitations of Claim 95 are considered in combination with the recitations of Claim 16, Applicants submit that Claim 95 is likewise patentable over the cited art.

Newly added Claim 96 recites a quick chill and thaw system for a refrigerator including a fresh food compartment, wherein the quick chill and thaw system includes "a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature; an evaporator in flow communication with said pan; and a heater element positioned such that air entering said pan is at a temperature greater than the first temperature".

Applicants respectfully submit that none of the cited art describes a quick chill and thaw system for a refrigerator including a fresh food compartment, wherein the quick chill and thaw system includes a pan positioned within the fresh food compartment, wherein the fresh food compartment is at a first temperature, an evaporator in flow communication with the pan, and a heater element positioned such that air entering the pan is at a temperature greater than the first temperature. Therefore, Applicants submit that Claim 96 is patentable over the cited art.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Thomas M. Fisher  
Registration No. 47,564  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102-2740  
(314) 621-5070